



2673A

#11

In re Application Of:)
Mark VAYDA et al.)
Application Number: 09/202,215)
Filed: October 5, 1999)
For: UNIVERSAL INPUT DEVICE AND SYSTEM)

Group Art Unit: 2673
Examiner: V. FRENEL

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PETITION TO WITHDRAW ABANDONMENT UNDER 37 C.F.R. § 1.181(a)

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Commissioner of Patents
U.S. Patent & Trademark Office
Washington, D.C. 20231

MAR 11 2002
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Sir:

In accordance with 37 C.F.R. § 1.181(a), Applicants respectfully request withdrawal of the holding of abandonment on the grounds that the above-captioned application is not in fact abandoned. Particularly, Applicants' representative received a Status Letter Reply faxed January 23, 2002 (copy enclosed), stating that the above-captioned application is abandoned in view of Applicants' failure to timely file a response within the statutory extended period of six months from the mailing date of the Office Action (the "Office Action"), mailed by the U.S. Patent and Trademark Office (PTO) on November 8, 2000. The holding of abandonment is believed to have been concluded in error because a Response and Petition for Three Month Extension of Time ("Applicants' Response") was filed with the PTO on May 8, 2001, and that the filing was indeed timely. The following is a brief summary of the prosecution history of this application with regard to the filing of Applicants' Response.

On May 8, 2001, Applicants responded to the Office Action of November 8, 2001, by depositing with the PTO Applicants' Response, which included a Petition for Three Month Extension of Time and an authorization to charge an extension of time fee in the amount of \$445.00 and any variance between this authorized amount and the fees determined by the PTO to the undersigned's PTO Deposit Account No. 50-1640. A copy of Applicants' Response as originally filed with the PTO on May 8, 2001, is enclosed along with a copy of the date-stamped

return receipt postcard showing a PTO OIPE stamp verifying that Applicants' Response was filed with the PTO on May 8, 2001.

In view of the above, Applicants respectfully request that the Commissioner of Patents withdraw the holding of abandonment for this application. The Commissioner is hereby authorized to charge the amount of \$445.00 to the undersigned's Deposit Account No. 50-1640 to cover the three-month extension of time fee for entry of Applicants' Response originally submitted on May 8, 2001. Applicants respectfully submit that no fee is required for consideration of this Petition to Withdraw Abandonment under 37 C.F.R. § 1.181(a). However, in the event the Commissioner deems any fee to be necessary for consideration and/or approval of Applicants' request to withdraw abandonment and maintain the present application as pending, the PTO is hereby authorized to charge any such fee to the undersigned's Deposit Account No. 50-1640.


Respectfully submitted,

BROBECK, PHLEGER & HARRISON LLP

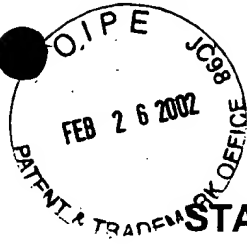
Dated: February 26, 2002

Brobeck, Phleger & Harrison LLP
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By:


Rodger L. Tate
Registration No. 27,399

RLT/TQC



STATUS LETTER REPLY RECEIVED

MAR 06 2002



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Washington, D.C. 20231

Technology Center 2600

Serial Number: 09/202,215Group Art Unit: 2673Filing Date: 10-5-99

Attorney Reference: _____

REQUESTER: Rodger Tate

Attorney of Record

- () Not of Record. Therefore, the following status information is being released to the following ATTORNEY OF RECORD: _____
- () Not of Record. Unfortunately, the status information can not be released because the requestor is not of record. If the requester should be of record, please forward additional changes to the Power of Attorney to the Customer Service Office.

STATUS INFORMATION

- () Action by the examiner.
Expected date for action on this application
Month: _____ Year: _____

- (X) Other (explain) No Response Received for 5/8/01
Rx IDS & change of address 10-16-01.
Please contact examiner of record for further
instruction.

Quoc Tran

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☐ PROVISIONAL

☒ UTILITY

☐ DESIGN

PATENT

Application No.: 09/202,215

Date: May 8, 2001

Client/Matter No.: 021506.0116

Client: Mark Vayda

Inventor(s): Mark Vayda et al.

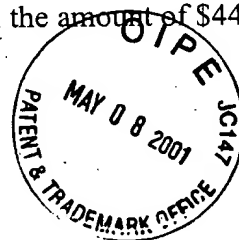
Atty/Sec.: RLT/RAK/eab

Title: UNIVERSAL INPUT DEVICE AND SYSTEM

The following has been received in the U.S. Patent and Trademark Office on the date stamped hereon:

☒ Request for Three-Month Extension of Time to Respond and Response Under 37 C.F.R. § 1.111 (8 pages)

☒ PTO Deposit Account No. 50-1640 charge in the amount of \$445.00





PATENT
Attorney Docket No. 21506.0116

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application Of:)
MARK VAYDA et al.) Group Art Unit: 2673
Application Number: 09/202,215) Examiner: V. Frenel
Filed: October 5, 1999)
For: UNIVERSAL INPUT DEVICE AND SYSTEM)

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MAR 06 2002
Technology Center 2600

REQUEST FOR THREE-MONTH EXTENSION OF TIME TO RESPOND AND
RESPONSE UNDER 37 C.F.R. § 1.111

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

PETITION FOR EXTENSION OF TIME

Applicants respectfully request a three-month extension of time under 37 C.F.R. § 1.136(a) for responding to the Office Action mailed on November 8, 2000, in the above-captioned patent application. Accordingly, please extend the period within which to file a response until and including May 8, 2000. The Commissioner is hereby authorized to charge Deposit Account No. 50-1640 in the amount of \$445.00 to cover the three-month extension small entity fee pursuant to 37 C.F.R. 1.17(a)(3). In the event of any variance between the amount authorized and the fees determined by the U.S. Patent and Trademark Office, please charge or credit any such variance to the undersigned's Deposit Account No. 50-1640.

AMENDMENT

In response to the Office Action mailed November 8, 2000, please amend the above-captioned patent application as follows:

IN THE CLAIMS:

Please cancel claims 71-92, without prejudice.

Please add new claims 93- 104, provided in a clean format in accordance with 37 C.F.R. § 1.121:

03/04/2002 CHSUYEN 00000047 501640 09202215

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--93. An input device for generating signals that represent input requests by a user, said device comprising:

a base portion having a top surface;

four primary keys disposed on said top surface;

at least one position-responsive input value selector that is responsive to a position of the top surface within a substantially horizontal plane; and

a signal generator operatively connected to the primary keys and the position-responsive selector generating a first signal indicating a user input value selection and a second signal indicating user data input request.

94. The input device of claim 93, wherein the primary keys are disposed on the top surface such that each finger of a user's hand rests on a primary key.

95. The input device of claim 94, wherein the primary keys are actuated without removing the finger from the primary key.

96. The input device of claim 93, further comprising a thumb key.

97. The input device of claim 93, wherein said position-responsive input value selector is responsive to changes in position along an Y- and/or Z-axis relative to a home state.

98. The input device of claim 93, wherein the base portion comprises a stationary bottom portion and a movable upper portion and said changes in position are of said upper portion relative to said stationary bottom portion.

99. The input device of claim 93, further comprising a second input device adapted for the other hand of the user.

100. The input device of claim 97, wherein said base portion is movable on the surface upon which it is placed and said changes in position are of the entire base portion relative to its position prior to moving.

101. The input device of claim 100, wherein said input value selector is a mouse mechanism.

102. The input device of claim 98, wherein said selector is a joystick mechanism.

103. The input device of claim 93, further comprising a mouse mechanism and a device for selectively enabling said mouse mechanism to provide a signal indicating desired mouse-based user input.

104. The input device of claim 93, further comprising means for navigating between multiple blocks of selective input values, wherein each block has at least three sets of values for each input key.--

REQUEST FOR RECONSIDERATION

Applicants have canceled claims 71-92, without prejudice, and reserves the right to present these claims later in the prosecution of this or a subsequent application. Applicants have added new claims 93-104. No new matter is introduced by these amendments, and these amendments are fully supported by the specification. Claims 53-70 and 93-104 are pending. Applicants respectfully request that the Examiner reconsider the above-captioned application in view of the foregoing amendments and the following remarks.

REMARKS

Claims 53-55 and 63 stand rejected under 35 U.S.C. §103(a), as allegedly rendered obvious by U.S. Patent No. 5,436,640 to Reeves et al. ("Reeves") in view of U.S. Patent No. 4,458,238 to Learn et al. ("Learn"). Claims 56-60 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Reeves in view of Learn and further in view of U.S. Patent No. 5,396,267 to Bouton et al. ("Bouton"). Claims 61-62, 65-66, and 71 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Reeves in view of Learn and further in view of Bouton and U.S. Patent No. 5,432,530 to Arita et al. ("Arita"). Claims 67-70 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Reeves in view of Learn and further in view of Bouton, Arita, and U.S. Patent No. 5,302,969 to Kuroda et al. ("Kuroda"). Claims 72-77 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Reeves in view of Learn and further in view of Bouton, Arita, Kuroda, and U.S. Patent No. 4,870,389 to Ishiwata et al. ("Ishiwata"). Claims 78-92 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Reeves in view of Learn and further in view of Bouton, Arita, Kuroda, Ishiwata, and U.S. Patent No. 4,724,431 to Holtely ("Holtely"). Applicants respectfully disagree.

1. Claims 53-71

Claims 53-55 and 63 stand rejected as allegedly rendered obvious by Reeves in view of Learn, and claims 56-62 and 64-71 stand rejected as allegedly rendered obvious by Reeves in view of Learn and further in view of various combinations of cited references. Applicants respectfully disagree, because the Office Action has failed to establish a prima facie case of obviousness.

In order to establish a prima facie case of obviousness, at least two criteria must be met. First, there must be some motivation or suggestion to make the proposed combination or modification of the references. Further, "the teaching or suggestion to make the claimed combination must be found in the prior art, and not based on the applicant's disclosure." MPEP 2142, discussing In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In addition, the combined, or modified, references must teach or suggest all claim limitations.

The Office Action alleges that Reeves describes all of the elements of claims 53 and 63, except Reeves for "a signal generator operatively connected to the plurality of inputs and the connector." Office Action, Page 2. Nevertheless, to cure this deficiency, the Office Action refers to Learn, which allegedly discloses this element. Id. Claims 53 and 63 recite "a signal generator operatively connected to the plurality of inputs and the connector, said signal generator generating at least one first signal indicating a movement or position of the control portion relative to the base portion, and at least a second signal indicating user data input requests." In contrast, Reeves describes a joystick having a plurality of inputs 30 and 32 connected to a control portion 22. Control portion 22 is connected to a base 28 via an actuation shaft 24 and first and second C-shaped gimbals 36. See, e.g., Reeves, Column 4, Lines 18-23; Column 4, Lines 36-42; and Figs. 1 and 2. Each gimbal 36 has a corresponding potentiometer 72 for sensing a movement of the joystick, where first potentiometer 72 senses movement along a X-axis, and second potentiometer 72 senses movement along a Y-axis. See Reeves, Column 5, Lines 22-30; and Abstract, Lines 7-13. However, potentiometers 72 are not associated with inputs 30 and 32, and do not indicate user data input requests. Thus, Reeves at least fails to describe "at least a second signal indicating user data input requests," as described in claims 53 and 63. Moreover, the Office Action does not allege that Learn describes or suggests these missing elements. Therefore, because the combination of references fails to disclose or suggest

all claim limitations, Applicants respectfully request that the rejection of these claims and the claims dependent therefrom be withdrawn.

Assuming arguendo that Reeves in view of Learn describes or suggests each and every element as set forth in claims 53 and 63, Applicants submit that modifying Reeves in view of Learn renders Reeves unsatisfactory for its intended purpose and changes Reeves' principle of operation. It is well-recognized that it is improper to combine references where the references teach away from the invention. References teach away from the invention when the "proposed modification renders the prior art unsatisfactory for its intended purpose or changes the principle of operation of a reference." MPEP 2145 (citations omitted). Modifying the signal generator of Reeves with the signal generator of Learn so that Reeves' signal generator is operatively connected to the plurality of inputs and the connector, as recited in claims 53 and 63, renders Reeves unsatisfactory for its intended purpose. As described above, Reeves is a joystick intended for use in combination with a video game system. In order to use a joystick in association with a video game system, it is necessary that the inputs be located on the top portion of the joystick, to enable a user to press the input buttons while simultaneously being able to control movement using the joystick. Moreover, from a mechanical perspective, the mechanism for sensing movement of the joystick must be located at the bottom of the joystick because the joystick is connected to the base at the bottom of the joystick. Operatively connecting the signal generator of Reeves, which is potentiometer 72, to inputs 30 and 32 and the connector, which comprises shaft 24 and gimble 36, would require that potentiometer 72, inputs 30 and 32, shaft 24, and gimble 36 be in close proximity to one another. Placing these elements in close proximity to one another would require drastically shortening the joystick, such that it would resemble a knob, and not a joystick, which would greatly reduce control over movement using the joystick. Thus, because the proposed modification to the signal generator of Reeves with the signal generator of Learn, so that Reeves' signal generator is operatively connected to the plurality of inputs and the connector, as recited in claims 53 and 63, would render Reeves unsatisfactory for its intended purpose, Applicants respectfully request that the rejection of claims 53 and 63, and all claims dependent therefrom, be withdrawn.

2. Claims 72-92

Claims 72-77 stand rejected as allegedly rendered obvious by Reeves in view of Learn and further in view of Bouton, Arita, Kuroda, and Ishiwata, and claims 78-92 stand rejected as allegedly rendered obvious by Reeves in view of Learn and further in view of Bouton, Arita, Kuroda, Ishiwata, and Holtely. Specifically, the Office Action alleges that Reeves, Learn, Bouton, Arita, and Kuroda describe most of the elements as described in claim 72, and that the remaining elements are described in Ishiwata.

Although Applicants do not necessarily agree with these rejections, in order to expedite the prosecution of the present application, Applicants have canceled these claims without prejudice. Applicants reserve the right to pursue these claims in this or a subsequent application. Therefore, this rejection is moot.

CONCLUSION

Applicants respectfully submit that this application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution might be advanced by discussing the application with Applicants' representatives, in person or over the telephone, we would welcome the opportunity to do so.

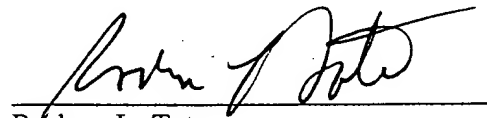
Respectfully submitted,

BROBECK, PHLEGER & HARRISON, LLP

Dated: May 8, 2001

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By:


Rodger L. Tate
Registration No. 27,399

APPENDIX A
VERSION OF CLAIMS WITH MARKINGS

In accordance with 37 C.F.R. § 1.121(b), Applicant submits a marked version of the claims, in order to indicate the changes Applicants have made to these claims.

Please cancel claims 71-92, without prejudice.

Please add new claims 93- 104 ; provided in a clean format in accordance with 37 C.F.R. § 1.121:

--93. (New) An input device for generating signals that represent input requests by a user, said device comprising:

- a base portion having a top surface;
- four primary keys disposed on said top surface;
- at least one position-responsive input value selector that is responsive to a position of the top surface within a substantially horizontal plane; and
- a signal generator operatively connected to the primary keys and the position-responsive selector generating a first signal indicating a user input value selection and a second signal indicating user data input request.

94. (New) The input device of claim 93, wherein the primary keys are disposed on the top surface such that each finger of a user's hand rests on a primary key.

95. (New) The input device of claim 94, wherein the primary keys are actuated without removing the finger from the primary key.

96. (New) The input device of claim 93, further comprising a thumb key.

97. (New) The input device of claim 93, wherein said position-responsive input value selector is responsive to changes in position along an Y- and/or Z-axis relative to a home state.

98. (New) The input device of claim 93, wherein the base portion comprises a stationary bottom portion and a movable upper portion and said changes in position are of said upper portion relative to said stationary bottom portion.

99. (New) The input device of claim 93, further comprising a second input device adapted for the other hand of the user.

100. (New) The input device of claim 97, wherein said base portion is movable on the surface upon which it is placed and said changes in position are of the entire base portion relative to its position prior to moving.

101. (New) The input device of claim 100, wherein said input value selector is a mouse mechanism.

102. (New) The input device of claim 98, wherein said selector is a joystick mechanism.

103. (New) The input device of claim 93, further comprising a mouse mechanism and a device for selectively enabling said mouse mechanism to provide a signal indicating desired mouse-based user input.

104. (New) The input device of claim 93, further comprising means for navigating between multiple blocks of selective input values, wherein each block has at least three sets of values for each input key.--